

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MICHAEL J. WAYNANT,)	Civ. No. 24-00065 HG-KJM
)	
Plaintiff,)	
)	
vs.)	
)	
PACIFIC AQUASCAPES, INC.;)	
JOHN DOES 1-10; JANE DOES)	
1-10; DOE PARTNERSHIPS 1-10;)	
DOE CORPORATIONS 1-10; DOE)	
ENTITIES 1-10; AND DOE)	
GOVERNMENTAL UNITS 1-10,)	
)	
Defendants.)	
_____)	

**ORDER ADOPTING THE MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATION
TO GRANT IN PART AND DENY IN PART
DEFENDANT PACIFIC AQUASCAPES, INC.'S MOTION TO COMPEL ARBITRATION
AND STAY PROCEEDINGS (ECF No. 16), AS MODIFIED**

Findings and Recommendation (ECF No. 16) having been filed and served on all parties on May 2, 2024, and no objections having been filed by any party,

IT IS HEREBY ORDERED AND ADJUDGED that, pursuant to Title 28, United States Code, Section 636(b)(1)(C) and Local Rule 74.1, the Findings and Recommendation is adopted as the opinion and order of this Court with the following modifications:

1. On Page 4, Paragraph 2, Line 1, REPLACE "January 3, 2024" with "January 23, 2024";
2. On Page 5, Paragraph 1, Line 4, REPLACE "524 U.S.

938, 944" with "514 U.S. 938, 944";

3. On Page 7, Paragraph 3, Line 3, REPLACE "expired on March 16, 2018. ECF No. 14 at 9 (citing ECF No. 8-1 at 11)" with "expired on March 13, 2018. ECF No. 14 at 9 (citing ECF No. 13 at 7)";

4. On Page 8, Paragraph 2, Line 7, REPLACE "Id. at 7-8" with "ECF No. 8-3 at 7-8";

5. The Court modifies the Findings and Recommendation by the Magistrate Judge given the United States Supreme Court's recent ruling in Smith v. Spizzirri, S.Ct. , 2024 WL 2193872, *4 (May 16, 2024) that abrogated Forrest v. Spizzirri, 62 F.4th 1201, 1204-05 (9th Cir. 2023) as relied upon by the Magistrate Judge.

On Pages 9-10, REPLACE the paragraphs under the heading "IV. Defendant's Request To Stay Proceedings" with "Defendant asks the Court to stay proceedings pending the outcome of the arbitration. In Smith v. Spizzirri, S.Ct. , 2024 WL 2193872, *4 (May 16, 2024) , the United States Supreme Court ruled that when a federal court finds that a dispute is subject to arbitration and a party has requested a stay of the court proceeding pending arbitration, the Federal Arbitration Act compels the court to stay the proceedings. Pursuant to Smith, the proceedings are **STAYED** pending

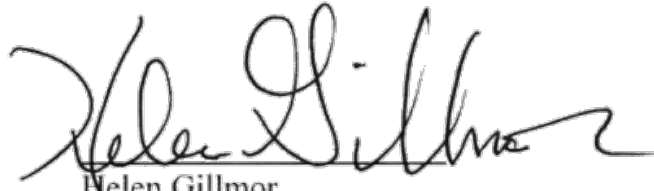
arbitration.”;

6. On Page 10, under “CONCLUSION” Lines 5-6 REPLACE “The Court further RECOMMENDS that the district court DENY Defendant’s request for a stay and DISMISS the case.” with “The proceedings are **STAYED** pending arbitration.”

IT IS SO ORDERED.

Dated: June 3, 2024, Honolulu, Hawaii, 2024.




Helen Gillmor
United States District Judge

Michael J. Waynant v. Pacific Aquascapes, Inc., John Does 1-10, Jane Does 1-10, Doe Partnerships 1-10, Doe Corporations 1-10, Doe Entities 1-10, and Doe Governmental Units 1-10; 24-cv-00141;
ORDER ADOPTING THE MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATION TO GRANT IN PART AND DENY IN PART DEFENDANT PACIFIC AQUASCAPES, INC.'S MOTION TO COMPEL ARBITRATION AND STAY PROCEEDINGS (ECF No. 16), AS MODIFIED